

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIACHRISTOPHE STANIC,
Plaintiff,

v.

ORTHOFIX US LLC, and others,
Defendants.

Case No. 21-cv-08063-NC

**ORDER TO SHOW CAUSE
WHY CASE SHOULD NOT BE
REMANDED**

Re: ECF 1

Defendant Orthofix US, LLC removed this case from Santa Clara County Superior Court on October 14, 2021. ECF 1. In its removal notice, Orthofix alleges that removal is proper based on diversity jurisdiction under 28 U.S.C. § 1332(a)(3). *Id.* at ¶ 5. However, in reaching this conclusion, Orthofix commits two errors.

First, Orthofix incorrectly applies the corporation citizenship test to itself, a limited liability company. *Id.* at ¶ 13. In the Ninth Circuit, LLCs are treated like partnerships for the purposes of diversity jurisdiction. *See Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). As such, Orthofix should have listed the citizenship of all its members and then evaluated diversity. *See* 15A Moore’s Federal Practice – Civil § 102.57 (2020).

Second, Orthofix has not provided enough information on Defendant Ken Hiebert. The Notice of Removal states that Hiebert is a “Canadian resident,” however the Court

1 needs to know his citizenship for its subject matter jurisdiction evaluation. *See* ECF 1 at
2 ¶ 15. If Hiebert is a Canadian resident and Canadian citizen, the Court can exercise
3 jurisdiction over him as an alien under 28 U.S.C. § 1332(a)(3). But if Hiebert is a
4 Canadian resident and *United States* citizen, the Court does not have diversity jurisdiction
5 because Hiebert would be “stateless” citizen for the purposes of § 1332(a)(3). *See*
6 *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989).

7 Accordingly, the Court ORDERS Orthofix to show cause in writing why this case
8 should not be remanded by October 27, 2021. The Court also reminds all parties to
9 consent or decline the jurisdiction of a magistrate judge by October 28, 2021. ECF 2.

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11 **IT IS SO ORDERED.**

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13 Dated: October 20, 2021

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16 NATHANAEL M. COUSINS
17 United States Magistrate Judge
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